
Report of 1 August 2007

Shipbourne Borough Green And Long Mill	558318 151100	29 November 2006	TM/06/03861/FL
Proposal:	Change of use and conversion of redundant agricultural buildings to holiday let use and car port		
Location:	Tinley Lodge Hildenborough Road Shipbourne Tonbridge Kent TN11 9QB		
Applicant:	Insite Development Ltd		

1. Description:

- 1.1 The proposal is for the change of use and conversion of former agricultural buildings to form one no. holiday let dwelling with car port at Tinley Lodge Farm. It is proposed to convert the disused storage building to form one no. three bedroom, fully self-contained holiday let dwelling. It is proposed that the existing metal sheeted timber roof be replaced with artificial slate, whilst the concrete block elevations will be timber clad with traditional weather boarding.
- 1.2 Access will remain as existing onto Hildenborough Road via Coldharbour Lane. The concrete surfacing to the rear of the storage building will be altered to form a smooth access and turning area up to the proposed 3 bay carport. This will be created by converting the existing open fronted barn, including re-roofing, timber cladding and modest front projection of the existing roof. The courtyard area will be landscaped to form a private amenity area for prospective tourists using the accommodation.
- 1.3 The proposal will not introduce any additional built form on the site.

2. The Site:

- 2.1 Tinley Lodge Farm lies approximately $\frac{3}{4}$ mile south-west of Shipbourne, 3 miles north of central Tonbridge. The application site comprises a disused agricultural storage building, fronting onto Coldharbour Lane, and an open sided brick barn to the rear. Both buildings are structurally sound and of substantial construction. As stated above, access to the site is from Hildenborough Road via Coldharbour Lane (private lane at this point). Six rural/residential dwellings are located on this part of Coldharbour Lane, with three existing residential properties clustered in the immediate vicinity of the application site.
- 2.2 The application site is located within the Metropolitan Green Belt and a Special Landscape Area. A TPO does exist on the site, however no significant trees are located in the immediate vicinity of the existing buildings and sealed areas.

3. Planning History:

3.1 No relevant planning history.

4. Consultees:

- 4.1 PC: Objection. Loss of residential amenity to the established residential group (policies P6/10(1) and P6/14(4)), concern about adverse impact from lighting, traffic generation, noise (P6/12(9)), vehicle access, evidence of bat colonies in the area and potential for the site to be contaminated. If allowed, sustainable building practices/materials should be used. Outstanding questions: Can TMBC confirm the buildings are redundant?; clarify access to the proposal; can limits be applied to the occupation of the unit?; clarification of sewage disposal by mains drain. If the application is allowed, it should be conditional upon a high level of sustainability being built into the conversion including high levels of insulation in the walls and roof. Appropriate environmental and ecological evidence should be submitted in relation to potential bat colonies and reported alleged contamination.
- 4.1.1 The PC has reviewed the [contamination] desk study recently supplied by the applicant in the above application. The report does not clarify the state of the land nor is it conclusive and it has been prepared solely for the client. The Limitations and Disclaimers section 1.5 on page 4 underlines this. TMBC should therefore conduct an independent survey.
- 4.2 KCC (Highways): No objection. The proposal is to convert existing redundant farm structures into a three bedroom self contained unit together with provision of a three bay carport for use as a holiday let. The application site is located some distance from the public highway, being served by a shared private drive, which is also partly the route of a public right of way: applicant to be advised to liaise with Public Rights of Way officer.
- 4.3 KCC PROW: No objection, informative recommended. Public footpath MT17a and Public Bridleway MT49 run through the site of this development and may be affected by the application.
- 4.4 In order for access to be gained to the site, vehicles will have to travel over Public Footpath MT17a and Public Bridleway MT49. The applicant should be made aware that the County Council has a controlling interest in ensuring that MT17a and MT49 are maintained to a level suitable for their public users. Any maintenance to the higher level required for vehicle access would be the responsibility of the landowner.
- 4.5 It is important to advise the applicant that the Public Right of Way must not be stopped up, diverted, obstructed or the surface disturbed and there must be no encroachment on the current width of the path at any time. This includes any building materials or waste generated during any of the construction phases.

Please note that no furniture or fixtures may be erected on or across Public Rights of Way without the express consent of the Highways Authority.

4.6 DL: No comments.

4.7 DHH: Contaminated land: The submitted detail is a desk study report prepared by Soil Limited. The report identifies one possible pollutant linkage between source-pathway-receptor. The report is fit for the purpose of determining the planning application. So, I advise the imposition of a three stage land contamination condition (see PPS23 para 2.63) aiming to:

1. Provide for further investigation and characterisation of the site to confirm the nature and extent of contamination and validate the conceptual model and allow more refined risk assessment and appraisal of remedial options;
2. To propose and receive approval for a remediation scheme that ensures the removal of unacceptable risks to make the site suitable to use; and
3. To submit and receive approval for a validation report that demonstrates the effectiveness of the remediation carried out.

4.7.1 Waste Management Services: Tonbridge & Malling Borough Council operates a wheeled bin, boundary of property refuse collection service. Where there are shared private drives, bins should ideally be placed at the nearest point to the public highway on the private drive (on the relevant collection day). The proposal states holiday use, how long in the year is the letting for? As this is a private roadway, a safe agreed collection point would need to be established prior to any consent being granted.

4.8 KCC Fire & Rescue: No objection, access is adequate.

4.9 KCC County Councillor for Malling West Division: Concerns are related firstly to access to the proposed development, which is linked to Coldharbour Lane by a bridle path. It would be highly undesirable that the development should generate pressure to change the bridle path to a road. It is currently enjoyed by horse riders and walkers. The buildings themselves are of poor construction and would require complete replacement, not merely conversion. Moreover, their rural location needs to be carefully preserved, as Shipbourne, like all villages in the Tonbridge and Malling area, exists in a fragile environment, susceptible to development and the proximity of urban centres. Tonbridge and Malling Borough Council needs to assert its conservation responsibilities assiduously, in order to retain rural settlements that benefit the quality of the area and the potential for sustainable tourism.

4.10 Natural England: Natural England has recently been sent a copy of a bat and barn owl survey conducted by Mr Roger Jones in support of the above proposal. The information supplied in support of the application includes details of the location and populations of the following protected species [Bats and Barn Owls], together with an assessment of the likely impacts.

4.10.1 Paragraph 98 of ODPM Circular 06/2005 states that '*The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat*'. Paragraph 9 also states that '*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.*'

Relevant legislation

Under Section 1 of the *Wildlife and Countryside Act 1981* (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species are included in Schedule 1 of the Act and are protected against disturbance while nesting. An up-to-date list of the species in Schedule 2 is available on the RSPB's website.

Section 9 of the *Wildlife and Countryside Act 1981* (as amended) provides protection to species of animal (other than birds) listed in Schedule 5 of the Act. Under the Act, it is an offence to:

- intentionally kill, injure or take any wild animal included in Schedule 5 (see Section 9(1));
- possess or control any live or dead wild animal included in Schedule 5 (see Section 9(2));
- intentionally or recklessly damage, destroy or obstruct access to any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
- disturb any such animal while it is occupying a structure or place that it uses for shelter or protection (see Section 9(4)); or
- sell or advertise for sale any wild animal included in Schedule 5 or possess any such animal (or part of one) for the purpose of sale (see Section 9(5)).

Not all species in Schedule 5 are afforded the complete protection described above. Certain species are only protected against certain actions. An up-to-date list of the species included in Schedule 5 and the protection that they are afforded is available on the JNCC's website.

In addition to the protection afforded by the *Wildlife and Countryside Act 1981*, certain species are also covered by European legislation. These species are listed in Schedule 2 of the *Conservation (Natural Habitats, &c.) Regulations 1994* (as amended), which is usually referred to as the Habitats Regulations. While the protection afforded these species is similar to that afforded by the *Wildlife and Countryside Act 1981*, the licensing requirements are much more stringent. Where a development affects a species protected under the Habitats Regulations, a licence issued by Natural England will be required to derogate

from the provisions of the Regulations. The licence will only be granted where certain tests, as set out under Regulation 44, have been satisfied.

Bats

Natural England is satisfied that the survey information provided by the applicants suggests that no bats are utilising the buildings to be affected by the proposals, however we would request that the following informative is appended to any consent:

- Should any bats be found at any stage during the works, all work must stop immediately and advice be sought from Natural England. All personnel working on site must be made aware of this advice and be provided with Natural England's telephone number.

Barn Owls

Natural England is satisfied that the survey information provided by the applicants suggests that no barn owls are utilising the buildings to be affected by these proposals and therefore has no comments to make in relation to this species.

Biodiversity enhancements

This application has many opportunities to incorporate features into the design which are beneficial to wildlife such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. As such we would recommend that should the Council be minded to grant permission for this application, measures to enhance the biodiversity of the site are secured from the applicant. This is in accordance with Paragraph 14 of PPS9. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

Summary and conclusions

Based on the information provided, Natural England has no objection to this application in respect of protected species subject to the recommendations detailed above.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake in the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation. Failure to do so may result in fines and, potentially, a custodial sentence.

Natural England would be grateful if the Council were to inform us as to how our advice has been incorporated into the decision made when determining this application.

4.11 Private reps: 3/0X/2R/0S + Art 8 (a total of 16 responses in objection, including 5 responses from one individual, and 2 responses from another individual).

Following points raised in objection:

- Increased traffic movements – noise, safety for residents, holidaymakers, horseriders and other users of the PROW/access, loss of amenity, impact on character of rural lanes/countryside, increase construction traffic
- Loss of amenity for residents – privacy, increased noise, inconvenience, disruption, lighting in the countryside, close proximity to neighbours
- Inappropriate materials out of keeping with other buildings in area – particularly the proposed roof tiles
- Potential for bat colonies in buildings – bats have been seen in the area, photos provided.
- Concern over questionable value of bat survey provided due to the time of year that the survey was completed; concern that development will result in the loss of ‘crevices within the breeze block walls’ which are potential resting places for bats – according to statements in the survey such roosts are protected; a statement in the bat survey suggests that the building is not structurally sound, which contradicts previous statements.
- Effect on PROW
- Potential contamination on site from farm machinery/fuel/asbestos
- The contaminated land report provided by the applicant is inconclusive and does not clarify the state of the land. It fails to mention the high levels of asbestos present, the ‘concrete cancer’ of the buildings immediately adjoining and the fact that it is known that pesticides, fertilisers, dung, slurry, oils, diesel and much scrap vehicle detritus were present and stored on site for many years. Farm manures, fertilizers and lime, agrochemicals and industrial wastes are known sources of concentrated heavy metals such as copper, zinc, molybdenum, cadmium and lead and the residence time of most heavy metals in the soil is long; The ‘Limitations and Disclaimers’ section of the report states the survey *“does not determine whether contamination has actually occurred, or if it has, the degree to which it may have taken place. An intrusive investigation(s) and analysis is required to establish the nature and degree of any contamination present”* – the study only attempts to estimate the risk. The applicant, knowing full well the previous history and questionable use of the site should have conducted an ‘intrusive’ – i.e. physical survey of the land, as recommended, and not just a ‘site walkover’; an adjoining property, The Barn, Tinley Lodge, has erroneously been reported on instead of the application site.
- No access to Coldharbour Lane as indicated, via Bridleway only – KCC notice specifically prohibiting vehicle traffic
- Not ‘appropriately located’ as no local services in the area

- High use of area for agricultural uses and traffic
- Buildings form part of a working farm
- Conversion will restrict ability to use the land for agricultural purposes
- 3 bay garage is excessive for one no. three bedroom holiday let – concern over potential for subsequent applications
- Contravenes policies – SP1, SS8, EN1, EN3, EN5, EN8, QL1, EP10 and EP12 of the KMSP.
- Little positive impact on the rural economy, economic enhancement unlikely to extend beyond applicant
- Existing buildings are not redundant, have been used for storage
- Buildings are in a poor state after many years of non-use and conversion will require significant works including construction noise/pollution and traffic/HGVs.
- Oast House holiday accommodation was not a conversion and the owners live on the site to greet holiday makers
- No mains drainage
- Uncertainty over re-routing of agricultural vehicles
- Question whether Certificate B notice has been served for the access
- Proposal will not preserve the simple agricultural design/character of the building
- No evidence of proven need for holiday accommodation.

5. Determining Issues:

- 5.1 The site is located within the Metropolitan Green Belt and a Special Landscape Area. Within the Metropolitan Green Belt there is a presumption against inappropriate development and, in line with SLA policy, development should conserve and enhance the natural beauty of the landscape. It is, however, acknowledged in national policy that the conversion of rural buildings for tourist accommodation is acceptable in principle, subject to meeting the requirements of other relevant planning legislation. This approach is carried forward in strategic and local plan policy. Therefore, the key issues relating to the proposal are whether the proposed change of use / rural building conversion is acceptable under the relevant tiers of planning policy, and whether the proposal will be detrimental to the amenities / character of the area having regard specifically to visual impact, noise, and privacy, traffic and effects on wildlife and site contamination.
- 5.2 The following issues raised through consultations are either not material planning considerations or are not considered to be of overriding significance in this instance and will not be addressed further in this report: sewage disposal, sustainable building works, need for tourist accommodation, the question of whether the application buildings are redundant, loss of opportunity to use land for agricultural purposes.

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- 5.3 With regard to development within the Metropolitan Green Belt, PPG 2 sets out a general presumption against inappropriate development, which by definition is harmful to the Green Belt. PPG 2 also states that with suitable safeguards, the reuse of buildings should not prejudice the openness of Green Belts, since the buildings are already there. It goes on to state (paragraph 3.8) that the reuse of buildings is not inappropriate if:
- it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it;
 - strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt;
 - the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and
 - the form, bulk and general design of the buildings are in keeping with their surroundings.
- 5.4 Furthermore, PPG 2 states that if a proposal for the re-use of a building in the Green Belt does not meet the criteria in paragraph 3.8 (see above), or there are other specific and convincing planning reasons for refusal, the local planning authority should not reject the proposal without considering whether, by imposing reasonable conditions, any objections could be overcome.
- 5.5 Policy SS2 of the KMSP 2006 also identifies a general presumption against inappropriate development in the Green Belt. Under policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998 (TMBLP) development (in the Green Belt)... will not be permitted unless acceptable under the terms of other policies of that plan, or otherwise exceptionally justified.
- 5.6 I consider that the proposal meets the policy requirements of PPG 2, specifically the criteria under paragraph 3.8 of that policy, and thus is not deemed to be inappropriate development in the Green Belt. The proposal does not result in an increase in built form on the site, and therefore will not have a materially greater impact on the openness of the Green Belt. The only changes proposed to the building relate to a change in cladding and an increase in the number of windows / doors in the principal elevations. The buildings are of permanent and substantial construction in keeping with the rural character of the area.
- 5.7 PPS 7: Sustainable Development in Rural Areas stipulates that Local Planning authorities should support the provision of self-catering holiday accommodation in rural areas where this would accord with sustainable development objectives. The re-use and conversion of existing non-residential buildings for this purpose may have added benefits, e.g. as a farm diversification scheme – farm diversification activities being identified as vital to the continuing viability of many farm enterprises.

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- 5.8 Policy SS8(ii) of the KMSP 2006 specifies that non-residential development in rural Kent other than at rural settlements should be the re-use, adaptation or redevelopment of an existing rural building or institution, where the change is acceptable on environmental, traffic and other planning grounds.
- 5.9 Policy EP7 of the KMSP 2006 states that there shall be no provision for business development outside of areas adjoining the built up area of Rural Service Centres or larger villages, in rural Kent except where:
- it involves the re-use, adaptation or development of an existing building, as covered by SS8(ii)... and good access can be provided to the primary road network and bus or rail services.
- 5.10 All development supported within the terms of policy EP7 should have no unacceptably adverse impact on the local transport network, the environment or the Green Belt and will be subject to the restriction of subsequent expansion if in conflict with the policies of this plan.
- 5.11 PPG 21: Tourism, states that rural areas, through the beauty of the landscape, apparently less intensive lifestyles and obvious historic continuity of building, attract a growing number of tourists. Appropriate development to meet the needs of these visitors is essential for both the local and the national economy, but it must respond sensitively to the local environment, demonstrate high standards of design and be appropriate in scale and location so that the environmental impact and associated visitor management problems are minimised.
- 5.12 Policy EP10 of KMSP is a general policy on Sustainable Tourism Development, while Policy EP12(d) of the KMSP 2006 more specifically relates to tourist accommodation and sets out that the conversion or extension of existing buildings to provide small hotels, bed and breakfast or self catering accommodation will be permitted provided this causes no harm to the local environment. In addition to this policy, the KMSP provides some further guidance with regard to tourism developments in rural areas: There is a presumption against development in the countryside, particularly when this is at a distance from settlements. Small-scale, high quality development for tourism or recreation that contributes to the diversification of a farm may, however, be acceptable under the terms of Policy EP8.
- 5.13 Policy EP8 generally seeks to support farm diversification in terms of agricultural, horticultural or forestry development, however, clause (b) sets out that the conversion, alteration or re-use of existing farm buildings for a suitable small-scale non-agricultural use which secures the viability of a farm will be permitted where the traffic and environmental impacts are acceptable.

5.14 At local plan level, TMBLP 1998 policies support proposals for the reuse of existing rural buildings for commercial, industrial, recreation or tourist development. In particular, policy P6/14 states that subject to policy P2/16, development will be permitted where:

- The building is of a form, bulk and general design which is in keeping with its surroundings
- The building is of permanent, substantial and sound construction and capable of conversion without major or complete reconstruction
- Any alterations proposed as part of the conversion are in keeping with the rural character of the building in terms of detailed design and materials
- The proposed use is acceptable in terms of residential and rural amenity, highway impacts and the use of land surrounding the buildings, and can be accommodated without requiring the erection of ancillary buildings. If appropriate, conditions will be imposed removing permitted development rights
- The proposed use does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit
- There is no adverse impact on the rural character or appearance of the area, both locally and in wider views, particularly within areas of identified landscape importance, and any landscaping scheme for the site is appropriate to a rural location.

5.15 The above policies clearly provide, in principle, for the conversion of rural buildings for tourist accommodation in rural areas where no new buildings are to be erected, and proposals do not result in adverse impacts on rural character and amenity. As discussed in paragraph 5.6 above, the proposal meets these requirements. With regard to restricting opportunities for future expansion, conditions limiting use of the site to particular use classes and restriction of any future development on the site can be imposed on any planning permission granted.

5.16 Consultations have raised concerns regarding the proposed cladding materials: slate tile roof and traditional timber weatherboard. I note that materials typical of the 6 residential dwellings located in the vicinity of the site include, plain clay tiles, stucco/plaster, traditional weatherboard and brick. A number of other agricultural buildings are located around the site and are constructed from a variety of materials including plain concrete block, brick, corrugated iron, weatherboard and asbestos. In my opinion the proposed use of weatherboard and slate tile, which is readily available and a common combination on agricultural buildings in Kent generally, is appropriate for the proposal. Given the lack of a clear theme in the building materials used on the variety of buildings within the vicinity of the site, I consider that the proposed cladding will result in an improvement in visual amenity over that of the existing building.

5.17 With regard to the site being located within a Special Landscape Area, planning policy deems the primary consideration to be the protection, conservation and enhancement of the natural beauty of the landscape. Where necessary mitigation measures should be provided. As the proposal will not result in any noticeable

material changes in built form or to the landscape, and the proposed materials will result in an improvement in visual amenity, I do not consider the proposal to be detrimental to the landscape. However, the applicant has stated the intention of providing some landscaping on the site, and accordingly I consider it appropriate to require the submission of a landscape plan as part of any planning permission to ensure the long term protection of the visual amenity of the site. It is also noted that the proposal is for tourist accommodation, the key attribute of which is essentially a form of residential accommodation, and accordingly it is considered to be a passive land use that will not adversely affect the opportunity for enjoyment of the area.

- 5.18 With regard to the potential for loss of privacy to adjoining dwellings, I note that on the eastern elevation facing Coldharbour Lane, two additional windows serving bedrooms are proposed. However, I consider that as the internal courtyard area which is directly accessible from the living areas of the unit faces west away from adjoining dwellings, any adverse effects on privacy will be minimal. It is also noted that the principal frontage of the adjoining dwelling to the east, being The Barn, Tinley Lodge Farm, does not face the proposed tourist accommodation unit.
- 5.19 A number of the policies discussed above specify that development in the form of re-use of buildings and tourist accommodation development in rural areas / the MGB should not result in adverse highway impacts, nor any associated adverse effects on amenity. Consultations have also revealed concern about the traffic impacts of the proposal on Coldharbour Lane / the Public Right Of Way. As noted previously, access to the site is from Hildenborough Road via a shared private drive (Coldharbour Lane) which is also a Public Right of Way. It is not expected that use of the proposed buildings for single-let tourist accommodation will result in any significant levels of additional traffic that would be out of keeping with existing traffic on the shared access. Given the nature of the access as a private drive, the relatively informal construction of the access and signs on the drive seeking to restrict speed, I do not consider that a low level of additional traffic will result in adverse effects on the safety of other drive/PROW users, nor the amenity of adjoining residents. The applicant has stated that existing farm machinery/vehicle movements on the access will remain unchanged as a result of the proposal.
- 5.20 Kent Highways have assessed the proposal noting the 3 bay carport parking arrangement and raise no objections. West Kent Public Rights Of Way have also assessed the proposal and raise no objections. Several informatives relating to maintenance and obstruction of the PROW have been recommended.
- 5.21 The core principle of land use planning is sustainable development. PPS7 specifies that a key principle of sustainable development in rural areas is accessibility. The key considerations raised by PPS7 relate to developments which are likely to generate large numbers of trips – which is not applicable in this instance. Decisions on the location of other developments in rural areas should, where possible, give people the greatest opportunity to access them by public

transport, walking and cycling, consistent with achieving the primary purpose of the development. It is noted that one of the key attributes of self-catering rural tourist accommodation is the rural location away from main centres and transport routes. Given the single-let scale of the proposal and the rural location, access to public transport is not deemed to be a key consideration. However, it is noted that the location of the site on a PROW linkage does provide for alternative walking and cycling opportunities.

- 5.22 Consultations did express concern about the potential for further development of both the application site and other adjoining farm buildings nearby. Consideration cannot be given to the potential for development outside the application site, however, I consider it appropriate to place conditions on any planning permission that would restrict use classes and any further development within the site. The granting of planning permission for this development does not preclude land beyond the application site from being used for rural land uses.
- 5.23 As a result of potential issues raised through consultations, the applicant was requested to provide a bat survey carried out by a qualified ecologist. Natural England have assessed the resultant survey which focuses on bats and barn owls and raise no objection to the proposal in respect of protected species. Several informatives have been recommended.
- 5.24 Consultations also raised the issue of potential site contamination from previous land uses, specifically farm machinery and chemical storage on the site. The applicant was requested to provide a desk top contamination study outlining potential point-source contamination on both the application site and adjoining sites. DHH has assessed the application and contamination report and is satisfied that the report is fit for the purpose of determining the planning application. DHH recommends the standard land contamination condition which requires more specific site investigation and reporting prior to the commencement of any development. I consider that the imposition of such a condition is appropriate.
- 5.25 The potential for any lighting of the site to create adverse effects on the character and amenity of the rural/residential area was raised via consultations. Given the rural location of the site I consider it appropriate to place a condition on the granting of planning permission which removes the permitted development or other rights to erect any external lighting without the prior written approval of the Council.
- 5.26 I consider that the proposal meets the relevant central government, strategic and local plan policy requirements. The proposal is not considered to result in any significant material changes to the Metropolitan Green Belt, Special Landscape Area and rural character of the area; or to result in any undue traffic effects or loss of amenity.

6. Recommendation:

6.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 13.06.2007, Desk Study Assessment CONTAMINATION dated 13.06.2007, Letter dated 12.02.2007, Ecological Survey dated 12.02.2007, Letter PLANNING STATEMENT dated 29.11.2006, Design and Access Statement dated 29.11.2006, Location Plan DHA/5639/01 A dated 29.11.2006, Site Plan DHA/5639/02 dated 29.11.2006, Floor Plans And Elevations DHA/5639/03 dated 29.11.2006, Floor Plans And Elevations DHA/5639/04 dated 29.11.2006, Site Plan DHA/5639/05 dated 29.11.2006, Floor Plans And Elevations DHA/5639/06 dated 29.11.2006, Floor Plans And Elevations DHA/5639/07 dated 29.11.2006, Email dated 04.01.2007, subject to compliance with the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 3 Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of the such variation on amenity and parking and vehicle circulation in the interests of safe and free flow of traffic.

- 4 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of

similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 5 The premises shall be used for tourist/holiday accommodation and for no other purpose (including any purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking and re-enacting that Order).

Reason: In accordance with planning policy and the application as submitted.

- 6 No development shall be commenced until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety.

- 7 There shall be no external lighting or illumination of the site until details of any lighting/illumination to be used externally have been submitted to and approved by the Local Planning Authority, and the lighting/illumination shall be carried out in accordance with the approved details.

Reason: In the interest of the amenity of the area and to prevent nuisance to neighbours.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C, D or E of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In order that the Local Planning Authority may exercise control over any such development in the interests of rural and residential amenity.

- 9 No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

Informatives

1. Should any bats be found at any stage during the works, all work must stop immediately and advice be sought from Natural England. All personnel working on site must be made aware of this advice and be provided with Natural England's telephone number. Natural England: 01233 812525.
2. It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation. Failure to do so may result in fines and, potentially, a custodial sentence.
3. In order for access to be gained to the site, vehicles will have to travel over Public Footpath MT17a and Public Bridleway MT49. The applicant should be made aware that the County Council has a controlling interest in ensuring that MT17a and MT49 are maintained to a level suitable for their public users. Any maintenance to the higher level required for vehicular access would be the responsibility of the landowner.
4. The applicant is advised that a Public Right of Way must not be stopped up, diverted, obstructed or the surface disturbed and there must be no encroachment on the current width of the path at any time. This includes any building materials

or waste generated during any of the construction phases. Please note that no furniture or fixtures may be erected on or across the Public Rights of Way without the express consent of the Highways Authority.

5. Tonbridge and Malling Borough Council operates a wheeled bin, boundary of property refuse collection service. Where there are shared private drives, bins should ideally be placed at the nearest point to the public highway on the private drive (on the relevant collection day).
6. Collection of bins from individual property boundaries or specified bin storage area, can be achieved where vehicle access is permitted, i.e. road constructed to highway standard to allow 32 tonne (GVW) Refuse Freighter and appropriate turning areas (vehicle 12m x 2.5m, with 6m wheelbase and 4.5m height).

Contact: Kathryn Stapleton

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 1 August 2007

**Shipbourne TM/06/03861/FL
Borough Green And Long Mill****Change of use and conversion of redundant agricultural buildings to holiday let use and car port at Tinley Lodge Hildenborough Road Shipbourne Tonbridge Kent TN11 9QB for Insite Development Ltd**

Private reps: 3 further consultations received, including one (the sixth) response from a single individual, and one (the second) response from another individual, raising the following points:

- We still object strongly to the change of use and inappropriate conversion of these buildings to holiday let use. I have read your report, which I feel is a comprehensive work. However, we are still at odds with you on fundamental issues such as the ability to convert the buildings within the law, the safety issues arising from active farming on the open site and the privacy impact on our bedrooms and sitting room. I am aware that the above application is due to be determined by Area 2 Planning Committee on Wednesday and that your recommendation is to grant planning permission with conditions. My previous correspondence, which is on file, details our reasoned objections to the proposal and I will not repeat them here. I wish, however, to comment on a number of points contained in the report that I feel are inaccurate or do not fully address the issues. Please could you study these responses and the correspondence on file if necessary and take these into consideration to alter your recommendation to the committee for the reasons given below:
- Paras. 2.1 and 5.3: The buildings are not 'structurally sound and of substantial construction'. They are not *capable of conversion without major or complete reconstruction*. This contravenes Planning Policy P6/14.2. They are 1960s single skinned brick and block, badly cracked, with little foundation and minimal softwood roofing clad in asbestos and tin. KCC County Councillor for Malling West, Valerie Dagger, also objects for these reasons (4.9). Additionally (and contrary to the applicant's statement) there is no mains drainage and no nearby electricity or gas supply.
- Contrary to 5.18, the proposed conversion is within a few feet of three bedrooms and a sitting room of our dwelling. Contrary to your view, vehicle movements and domestic noise and paraphernalia (where there is none now) *will* result in a *loss of privacy*. As agreed by the parish council and others, this will *harm the particular character and quality of the local environment* (Planning Policy P4/11) and is not *acceptable in terms of residential and rural amenity* (P6/14.4). Conversion to a holiday let will have an *adverse impact on the rural character of*

the area and therefore contrary to planning policy.

- In 1.2, 2.1 and 5.19 access to the site is *not* available from Coldharbour Lane. The only access is via our private driveway over which the applicant has a right of way only. This is *not* Coldharbour Lane which finishes in Hildenborough parish at Coldharbour. (The applicant has also withdrawn the initial proposal for a separate access elsewhere due to further objection and impracticality). In 4.7.1 – the last sentence states “a safe, agreed collection point would need to be established (for refuse collection) prior to consent”. Informative 6 will not be workable. Refuse Freighters will not be able to access and turn on the site and they will not be permitted access to our property where there is no right of way to collect the applicant’s refuse. The land in the picture is ours and not owned by the applicant.
- The care taken by you to minimise the impact on wildlife is appreciated. However, there is no doubt that bat colonies *are* present locally. The law protects such colonies *in the area* from disturbance caused by development as it would (from PP 3/4.1) *materially harm wildlife and habitats on or in the vicinity of the site*. Bats fly regularly here.
- In 5.19 the applicant states *existing farm machinery / vehicle movements on the access will remain unchanged*. This is completely unsafe. Access to the proposed conversion is used on a daily basis by the applicant’s own heavy tractors, trailers and shoot management vehicles. Additionally, contractors of the applicant and ours, again using tractors and large trailers, regularly pass year round, along the single track lane that is to be used for holiday access. The driveway at this point is unsuitable for domestic vehicles and it is not possible to pass and the applicant owns no land or verge outside of the building’s edge. Current domestic use here is minimal. It is also impractical to fence the whole site and holiday visitors will be in direct confrontation with agricultural machinery.

In conclusion, the proposal is ill conceived for this location and the general site totally unsuitable for holiday makers; both able bodied and disabled. It will, if approved, instigate a number of ongoing issues of safety, planning, service and maintenance and rights of way. You will also know that there have been 12 independent and individual objections from a total of 16 responses, with no one supporting the proposal.

I respectfully ask that you revisit the above points and advise members accordingly by reconsidering your recommendation and advise to *refuse* this application on Wednesday.

If the planning application is approved, I request that two additional conditions be placed on the development, namely:

- That work is carried out at the site at social hours during the day, and
- Access to the site is via a private single carriage lane and accordingly to reduce the inconvenience to neighbours it is requested that deliveries and large vehicles are restricted from using the lane during peak times e.g. school run times. Therefore, that no deliveries or heavy vehicles use the lane before 9am.
- I live at the far end of Coldharbour Lane from the B245 just before it joins the public bridleway. I understand that a planning application has been made for a holiday let at Tinley Lodge Farm. Over the past year we have seen an enormous increase in the amount of traffic coming down Coldharbour Lane, travelling very fast, and carrying on down the bridleway before they are able to stop. In most of the cases the cars then reverse back up the bridleway and then ask for directions. All these cars have sat nav and put in the post code of Tinley Lodge and surrounding areas and have been directed down Coldharbour Lane as sat nav does not recognise Coldharbour Lane as a no through road.

If the planning application for Tinley Lodge is successful, can you please assure us that the Council will take responsibility for ensuring that Coldharbour Lane is more clearly marked as a no through road, perhaps with speed humps towards the end and a barrier put across where the public bridleway begins. There are a large number of children that ride and walk on the bridleway and to have cars travelling at speed, even though the road is unmade, is not acceptable.

It is also stated that access to the site will be over public bridleway MT49 and public footpath MT17a. Again, can you please inform us as to what arrangements will be put in place to ensure that all traffic is travelling at a minimum speed.

DPTL comment: I have investigated the issue of structural stability and whether or not the buildings are capable of conversion without substantive alteration/rebuilding. Only an external inspection of the property was possible. The walls appear to be constructed from hollow concrete block. It is not possible at this stage to comment too much on the structural stability as the existing foundations etc are unknown. Having said that, there is no actual evidence of cracking in the walls.

There is no horizontal DPC in the wall, only a vertical slate plinth which is partly detached from the wall anyway and does not seem to extend completely around the building. The roof structure seems to be sound and I note it is proposed to put back lightweight slates.

The main concern from the point of view of the Building Regulations would be in terms of the thermal insulation to the building which will be necessary to all the elements of the building, ground floor, walls, roof etc. Any new windows would need to be double glazed to meet a U value of 0.18Wm²/C and a Target Energy Rating and a Dwelling

Energy Rating would need to be produced. I suspect the walls in particular would need heavy insulating possibly inside and out.

I note the additional comments from the objectors, but there is nothing I would wish to add to my main report.

RECOMMENDATION REMAINS UNCHANGED
